

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS

NATIONWIDE CAPITAL FUNDING,
INC.

v.

JOHNSON CONTROLS
FIRE PROTECTION LP

:
:
:
:
:
:

Civil Action No.

EXHIBIT C: STATE COURT DOCKET AND PLEADINGS

Chronological Case History

Style	NATIONWIDE CAPITAL FUNDING INC vs. JOHNSON CONTROL FIRE PROTECTION LP			
Case Number	202059389	Case Status	Active - Civil	Case Type
File Court	061	File Date	9/23/2020	Next Setting

Date	Type	Description
9/23/2020	DOCUMENT	ORIGINAL PETITION COURT: 061 ATTORNEY: BAUCUM, JOSEPH BENEDICT PERSON FILING: NATIONWIDE CAPITAL FUNDING INC
10/2/2020	SERVICE	PERSON SERVED: JOHNSON CONTROL FIRE PROTECTION LP (A FOREIGN LIMITED PARTNERSHIP)BY SERVING ITS REGISTERED AGENT CT CORPORATION SERVICE TYPE: CITATION INSTRUMENT: SEVERANCE ORDER
10/23/2020	DOCUMENT	ANSWER ORIGINAL PETITION COURT: 061 ATTORNEY: HICKLAND, JUDE THOMAS PERSON FILING: JOHNSON CONTROL FIRE PROTECTION LP

Receipt Number: 879198

EML

Tracking Number: 73791730

COPY OF PLEADING PROVIDED BY PLT

CAUSE NUMBER: 202059389

PLAINTIFF: NATIONWIDE CAPITAL FUNDING INC

In the 061st Judicial

vs.

District Court of

DEFENDANT: JOHNSON CONTROL FIRE PROTECTION LP

Harris County, Texas

CITATION

THE STATE OF TEXAS
County of HarrisTO: JOHNSON CONTROL FIRE PROTECTION LP (A FOREIGN LIMITED PARTNERSHIP) BY SERVING ITS
REGISTERED AGENT CT CORPORATION
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION.

This instrument was filed on September 23, 2020, in the above numbered and styled cause on the docket in the above Judicial District Court of Harris County, Texas, in the courthouse in the City of Houston, Texas. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

ISSUED AND GIVEN UNDER MY HAND and seal of said Court, at Houston, Texas, this
September 23, 2020.*Marilyn Burgess*Marilyn Burgess, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002

Generated By: WANDA CHAMBERS

Issued at request of:
 BAUCUM, JOSEPH BENEDICT
 615 NORTH UPPER BROADWAY, SUITE 1100
 CORPUS CHRISTI, TX 78401-0748
 361-888-9201

Bar Number: 24076262

AFFIDAVIT OF SERVICE

State of Texas

County of Harris

61st District Court

Case Number: 202059389

Plaintiff:

NATIONWIDE CAPITAL FUNDING, INC.

vs.

Defendant:

JOHNSON CONTROLS FIRE PROTECTION, LP

For:

Joseph B. Baucum
Wood Boykin & Wolter
615 N. Upper Broadway Suite 1100
Corpus Christi, TX 78401-0748

Received by Allen Civil Process on the 2nd day of October, 2020 at 10:40 am to be served on Johnson Control Fire Protection Lp Registered Agent: CT Corporation, 1999 Bryan Street Suite 900, Dallas, TX 75201.

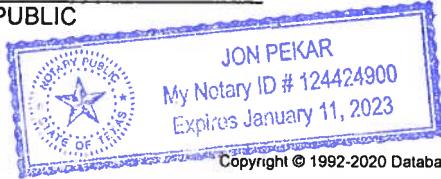
I, Anthony Collins, being duly sworn, depose and say that on the 2nd day of October, 2020 at 2:45 pm, I:

Executed service by hand delivering a true copy of the .Citation and Plaintiffs Original Petition to: Beatrice Casarezbar , an authorized acceptance agent employed by Registered Agent CT Corporation System, Inc., who is authorized to accept service of process for Johnson Control Fire Protection Lp , at the address of: 1999 Bryan Street Suite 900, Dallas, TX 75201, and informed said person of the contents therein, in compliance with state statutes.

"I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server in good standing in the judicial circuit in which the process was served. I have personal knowledge of the facts set forth in this affidavit, and they are true and correct."

Subscribed and Sworn to before me on the 5th day of October, 2020 by the affiant who is personally known to me.

NOTARY PUBLIC

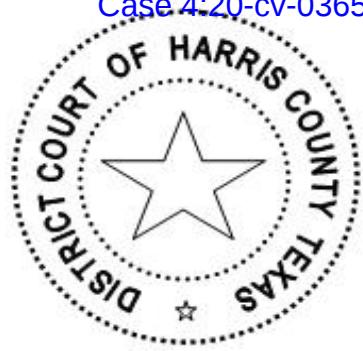


Anthony Collins
PSC-357 Expires 12/31/2021

Allen Civil Process
400 Mann St
Suite 902
Corpus Christi, TX 78480
(361) 884-1657

Our Job Serial Number: ALN-2020008508





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this October 26, 2020

Certified Document Number: 92537743 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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INFORMATION FOR ISSUANCE OF SERVICE**REQUEST SERVICE TO BE ISSUED IN:**

CASE NUMBER: _____

INSTRUMENT TO BE SERVED: Plaintiff's Original Petition

DATE REQUESTED: September 23 2020
MONTH DAY YEAR**SERVICE BY (CHECK ONE):**

CONSTABLE/SHERIFF _____ RETURN TO ATTORNEY BY MAIL _____ XXXX

CERTIFIED MAIL _____ PICK UP BY ATTORNEY/PROCESS _____

CITATION BY POSTING AT COURTHOUSE DOOR (# of days to be posted) _____

CITATION BY PUBLICATION (Name of Paper) _____
(# of days to be published) _____**SERVICE TO BE ISSUED ON: (PLEASE PRINT INFORMATION)**

1.) NAME: Johnson Controls Fire Protection, LP, a Foreign Limited Partnership

ADDRESS: 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136

AGENT (IF APPLICABLE): CT Corporation

2.) NAME: _____

ADDRESS: _____

AGENT (IF APPLICABLE): _____

3.) NAME: _____

ADDRESS: _____

AGENT (IF APPLICABLE): _____

SERVICE REQUESTED BY:

NAME: Joseph B. Baucum

ADDRESS: 615 N. Upper Broadway, Suite 1100, Corpus Christi, Texas 78401-0748

PHONE NUMBER: 361-888-9201

*FOR EACH PARTY SERVED YOU MUST FURNISH 1 COPY OF THE PLEADING(S) WITH THE EXCEPTION OF SEC. OF STATE, COM. OF INSUR., TX. DEPT. OF TRANS., AND THE HAGUE CONVENTION.

NOTES:
SIGNATURE OF AGENT REQUESTING SERVICE

361-888-9201

PHONE NUMBER



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this October 26, 2020

Certified Document Number: 92293751 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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CAUSE NO. _____

NATIONWIDE CAPITAL FUNDING, INC. § IN THE DISTRICT COURT
§
V. § _____ JUDICIAL DISTRICT
§
JOHNSON CONTROLS FIRE §
PROTECTION, LP § HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Nationwide Capital Funding, Inc. (hereinafter "Plaintiff") is complaining of Johnson Controls Fire Protection, LP (hereinafter "Defendant") and for cause of action would respectfully show the court the following:

I.

Discovery in this lawsuit is intended to be conducted under Level 2.

II.

Plaintiff is a Texas Corporation that maintains its principal office in Nueces County, Texas.

Defendant is a Foreign Limited Partnership and may be served with Citation through its registered agent, CT Corporation, 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136. This Defendant is an entity and has not been issued a driver's license number or social security number.

III.

Defendant purchased goods, wares, merchandise, and/or services on credit from AES Design and Construction, LLC (AES), who issued invoices for such goods and services, and in turn assigned these invoices to the Plaintiff. As such, AES original invoices for the amount due and owing were served on Defendant. The amount now outstanding and unpaid on the account is the sum of \$89,855.25.

IV.

This court has jurisdiction over the parties and issues in this case. Venue for this action is proper in Harris County, Texas, pursuant to §§ 15.002 of the Civil Practice and Remedies Code because this is the county in which a substantial part of the events giving rise to the cause of action occurred.

V.

Repayment on the invoices fell into default because Defendant failed to pay as agreed, even though Defendant acknowledged the assignment of the invoices to Plaintiff. Demand was made that the Defendant pay the amounts due and owing to Plaintiff on the invoices; however, despite such demands, Defendant failed and refused, and continues to fail and refuse to pay the invoices in accordance with the terms agreed to by the parties.

VI.

Plaintiff is the owner and holder of the invoices, and is also entitled to recovery thereon. All conditions precedent for recovery have occurred.

VII.

After application of all offsets and credits, as of July 13, 2020, there is past due and payable by Defendant to Plaintiff the unpaid balance of \$89,855.25.

VIII.

As a result of Defendant's default on the payment of its obligation to Plaintiff, Plaintiff was required to hire the undersigned attorneys to assist it in collecting the amounts due and owing to Plaintiff. Such attorneys have rendered services in an effort to collect the unpaid balance, and continue to render services by prosecuting this lawsuit. Plaintiff is currently represented by the undersigned attorneys and has agreed to pay them reasonable and necessary attorney's fees and

expenses. The claim has been presented to Defendant, but just amounts owed by Defendant to Plaintiff have not been tendered. More than thirty (30) days have expired since the claim was initially presented. Accordingly, Plaintiff is entitled to recover its reasonable and necessary attorney's fees and expenses, as permitted by the terms of the loan documents and the law.

IX.

Plaintiff by this lawsuit is seeking not only the amounts due and owing to it under the invoice, but also seeking to recover its reasonable and necessary attorney's fees, expenses, and other costs of collection as permitted by law.

X.

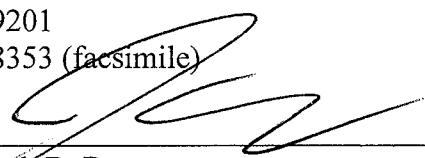
REQUESTS FOR DISCLOSURE

Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff requests that Defendant discloses, within fifty (50) days of the service of this request, the information or material described in Rule 194.2(a) through (l), inclusive. In addition, pursuant to Rule 190.2(b)(6) of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff further requests that Defendant disclose all documents, electronic information, and tangible items that Defendant has in its possession, custody, or control and may use to support its claims and defenses in this lawsuit.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendant be cited to appear and answer herein, and that upon final hearing, Plaintiff have judgment against Defendant as plead herein in the amounts set out above, post judgment interest at the highest rate permitted by law, judgment against Defendant for Plaintiff's reasonable and necessary attorney's fees, all costs of court, together with post judgment interest on such attorney's fees, and such other and further relief to which Plaintiff may show itself justly entitled.

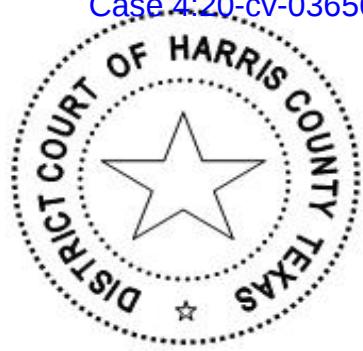
Respectfully submitted,

WOOD, BOYKIN & WOLTER
A Professional Corporation
615 North Upper Broadway, Suite 1100
Corpus Christi, Texas 78401-0748
(361) 888-9201
(361) 888-8353 (facsimile)

By: 

Joseph B. Baucum
Texas Bar No. 24076262
jbb@bwpc.com
Peter E. Avots
Texas Bar No. 01456450
pea@bwpc.com

ATTORNEYS FOR NATIONWIDE
CAPITAL FUNDING, INC.



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this October 26, 2020

Certified Document Number: 92293750 Total Pages: 4

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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CAUSE NO. 202059389

NATIONWIDE CAPITAL FUNDING, INC., § IN THE DISTRICT COURT OF
§
Plaintiff, §
§
v. § 61ST JUDICIAL DISTRICT
§
JOHNSON CONTROLS FIRE §
PROTECTION, LP, §
§
Defendant. § HARRIS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

Defendant Johnson Controls Fire Protection LP ("Defendant") files this Original Answer.

I. GENERAL DENIAL

1. Defendant denies each and every allegation contained in Plaintiff's Original Petition, and any amendments thereto, as permitted under Rule 92 of the Texas Rules of Civil Procedure and demands strict proof thereof.

II. DEFENSES

2. Not all conditions precedent to entitle Plaintiff to recover the sums sought have been performed or occurred, including but not limited to AES's failure to complete the invoiced work in a reasonable and workmanlike manner, or at all.

3. Defendant affirmatively pleads the defense of offset.
4. Defendant affirmatively pleads the defense of waiver.
5. Defendant affirmatively pleads the defense of estoppel.
6. Defendant asserts that Plaintiff did not mitigate its damages, if any.
7. Defendant asserts that Plaintiff lacks standing.

8. Defendant asserts that Plaintiff fails to state a valid claim upon which relief can be granted.

9. Defendant asserts that Plaintiff has no basis recognized by applicable law for recovery of its attorneys' fees, costs, or expenses.

10. Defendant asserts that Plaintiff has no right to recovery from Defendant due to the existence of a "customer dispute" as defined in Plaintiff's contract with AES.

Submitted by:

Dated: October 23, 2020

FAEGRE DRINKER BIDDLE & REATH LLP

By: */s/ Jude T. Hickland*

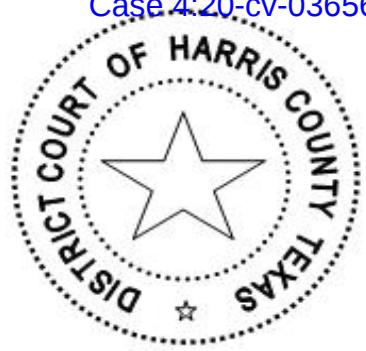
Jude T. Hickland, Bar No. 24065416

jude.hickland@faegredrinker.com

1717 Main Street, Suite 5400
Dallas, TX 75201
Telephone: +1 469 357 2500
Facsimile: +1 469 327 0860

Attorneys for Defendant
JOHNSON CONTROLS FIRE PROTECTION
LP

ACTIVE.125396013.01



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this October 26, 2020

Certified Document Number: 92763384 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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